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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,682	02/23/2004	Michael J. McGowan	8103B	1905

7590 10/26/2004

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EXAMINER

GRAVINI, STEPHEN MICHAEL

ART UNIT	PAPER NUMBER
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3749

DATE MAILED: 10/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,682

Applicant(s)

MCGOWAN, MICHAEL J.

Examiner

Stephen Gravini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20040223</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 12-14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Brewer (US 5,033,368). Brewer is considered to disclose the claimed invention comprising:

a housing **1**; a tank **9** adapted for seating in said housing and a reservoir provided in said tank for containing cooking oil (please see column 1 line 9); a burner chamber **42** or **49** provided in said tank adjacent to said reservoir; a gas burner **54** or **57** provided in said burner chamber for heating the cooking oil in said reservoir; an exhaust opening **43** or **50** provided in said tank for exhausting the products of combustion from said gas burner; and a reverse-curve baffle **9b** provided in said tank, said reverse-curve baffle separating said reservoir from said burner chamber; or alternatively:

a housing **1**; a tank **9** having a bottom and adapted for seating in said housing and a cooking oil reservoir shaped in said tank for containing cooking oil (again please see column 1 line 9); a burner chamber shaped in said tank adjacent to said cooking oil reservoir; a gas burner **54** or **57** disposed in said burner chamber for heating the cooking oil in said cooking oil reservoir; an exhaust opening **43** or **50** provided in said tank, said exhaust opening communicating with said burner chamber for removing the

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exhaust gases produced by said gas burner from said tank; and a reverse-curve baffle 9b provided in said tank said reverse-curve baffle extending from said exhaust opening in said tank and reverse-curving downwardly to said bottom of said tank, for separating said cooking oil reservoir and said burner chamber in said tank, as shown in figures 3 and 5-8. Brewer is also considered to disclose the claimed combustion product deflection at column 9 lines 13-17 and a thermometer by implication at column 2 lines 43-45 wherein the disclosed temperature monitoring is considered to anticipate the claimed thermometer because both measure temperature.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 5-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer in view of McCabe et al. (US 5,253,566). Brewer is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for

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the claimed basket mount and dual supporting rods. McCabe, another deep fat fryer teaching like the deep fat fryer teaching in Brewer, is considered to disclose a basket mount and dual supporting rods at column 3 lines 53-66. It would have been obvious to one skilled in the art to combine the teachings of Brewer with the basket mount and dual supporting rods, considered disclosed in McCabe for the purpose of allowing a plurality of baskets to be inserted and/or removed from a deep fat fryer.

Claims 16-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brewer in view of Fogel et al. et al. (US 3,977,390). Brewer is considered to disclose the claimed invention, as discussed above under the anticipatory rejection, except for the claimed thermometer, tank, and housing supports. Fogel, another deep fat fryer teaching like the deep fat fryer teaching in Brewer, is considered to disclose a thermometer, tank, and housing supports at column 5 lines 1-60. It would have been obvious to one skilled in the art to combine the teachings of Brewer with the thermometer, tank, and housing supports, considered disclosed in Fogel for the purpose of allowing a plurality of devices to be supported in an operation of a deep fat fryer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. References C-H, cited with this action, are considered to disclose deep fat fryers with reverse curved baffles in order to separate combustion products from cooking oil.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gravini whose telephone number is 703 308

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7570. The examiner can normally be reached on normal weekday business hours (east coast time).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira S. Lazarus can be reached on 703 308 1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Smg

October 25, 2004

Stephen M. Givini